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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,928	10/01/2004	Daniel J Sweigard	0837RF-H543-US	4313
38441	7590	02/05/2008	EXAMINER	
LAW OFFICES OF JAMES E. WALTON, PLLC 1169 N. BURLESON BLVD. SUITE 107-328 BURLESON, TX 76028			WOOD, KIMBERLY T	
		ART UNIT	PAPER NUMBER	
		3632		
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		02/05/2008	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/509,928	SWEIGARD, DANIEL J
	Examiner Kimberly T. Wood	Art Unit 3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 01 October 2004.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

This is an office action for serial number 10/509,928.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 6-12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art figures 1A and 1B in view of Imura 5,248,119. Figures 1A and 1B disclose a clip comprising base portion 13, a clamp portion 11 having opposing fingers 21, 23, and 25 that act as springs and form a channel, and a mounting aperture 17, a base having a lubricant disposed between the base portion and the structure (specification page 2, line 1), clip operably associated with an aircraft/structure (specification page 2, line 26ff). Figures 1A and 1B disclose all of the limitations of the claimed invention except for the at least two mounting apertures, the polytetrafluoroethylene, and an anti-friction insert member. Imura teaches that it is known to have an anti-friction insert

member comprising an elongated shaft portion (near 3), a central channel (where P is received), a longitudinal slot (see figure 2A, and column 3, line 10), a flange on each end (where the arrow for 4 is pointing). It would have been obvious to one having ordinary skill in the art to have modified the applicant's admitted prior art figures 1A and 1B to have included the anti-friction insert as taught by Imura for the purpose of to prevent the tubular member from sliding within the clip. It would have been obvious to one having ordinary skill in the art to have modified Figures 1A and 1B to have an additional mounting aperture to the base portions since such a modification is merely a duplication of parts and generally recognized as being within the level of one skilled in the art. It would have been obvious to one having ordinary skill in the art to have modified the Figures 1A and 1B to have made the insert member of polytetrafluoroethylene, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice and the applicant has not disclose how the material is a critical element of the invention. *In re Leshin*, 125 USPQ 416.

Claims 5, 13, and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art figures 1A and 1B in view of Imura 5,248,119 in further view of Tabor 3,710,674. Applicant's admitted prior art figures 1A and 1B in view of Imura discloses all of the limitations of the claimed invention except for the flanges abutting the finger members. Tabor teaches that it is known to have a split sleeve (44) having flanges (46 and 48) abutting against its receiving member (18) therefore preventing axial movement. It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Applicant's admitted prior art figures 1A and 1B in view of Imura to made the flanges to abut the finger member for the purpose of preventing axial movement.

*Response to Arguments*

Applicant's arguments filed January 6, 2006 have been fully considered but they are not persuasive.

In response to applicant's arguments that that Imura is silent with regard to its member 4 having any anti-friction characters therefore not having any anti-friction characters this argument is hereby traversed. The applicant's admits that Imura teaches that the member (4) is made of rubber or resinous

elastic material. This statement that "(4) is a resinous or rubber elastic member" within column 3, line 10 by Imura provides all of the proof or statement needed to meet the applicant's limitation of anti-friction characteristics since it is well known and conventional in the art that "rubber" provides anti-friction characteristics inherently as supported by the disclosure of Acker et al. column 4, line 36ff that "for such rubber-elastic material to bear anti-friction coatings".

Applicant's arguments with respect to claims including flanges preventing axial movement of the insert member relative to the finger members have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to do so is found

within the references themselves since Imura provides a insert (4) used to resiliently grip a cylindrical member such as a wire, pipe, or tube for the purpose of preventing damage which is knowledge generally available to one having ordinary skill in the art.

In regards to the applicant's arguments that that it is not obvious to make the insert of polytetrafluoroethylene this argument is hereby traversed. The applicant states on page 5, line 15 that

In the preferred embodiment, insert member 129 is made of polytetrafluomethylene. However, it should be understood that in alternate embodiments other suitable anti-friction materials may be used, or insert member 129 may be manufactured from other materials, covered with, coated with, or otherwise treated with polytetrafluoroethylene or any other suitable anti-friction material.

This statement supports the examiner's reasoning that it would have been obvious to one having ordinary skill in the art to have modified the Figures 1A and 1B to have made the insert member of polytetrafluoroethylene, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice and the applicant has not disclose how the material is a critical element of the invention. *In re Leshin*, 125 USPQ 416.

**Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Wood whose telephone number is 571-272-6826. The examiner can normally be reached on Monday-Thursday 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kimberly T. Wood/  
Kimberly T. Wood  
Primary Examiner  
Art Unit 3632

January 7, 2008